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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
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11 MARWAN AHMED HARARA, )  
12 Plaintiff(s), ) No. C04-0515 BZ  
13 v. )  
14 CONOCOPHILLIPS COMPANY, et ) **ORDER GRANTING**  
15 al., ) **PLAINTIFF'S MOTION**  
16 Defendant(s). ) **TO AMEND HIS ADMISSIONS**  
17 \_\_\_\_\_ )

18 Now before me is plaintiff's motion to amend his  
19 admissions. Where a party responds to requests for  
20 admissions after the required date, the court may grant  
21 relief to the responding party if amendment of the  
22 admissions will both serve the presentation of the case on  
23 the merits and not prejudice the requesting party. See  
24 Fed. R. Civ. P. 36(b); Sonoda v. Cabrera, 255 F.3d 1035,  
25 1040 (9th Cir. 2001); Rabil v. Swafford, 128 F.R.D. 1, 3  
26 (D.D.C. 1989). While plaintiff served his response to  
27 defendant's first set of requests for admission on February  
28 14, 2005, five days after the deadline, he claims that he

1 left a telephone message with defense counsel on February  
2 9, 2005, in which he requested an extension. Defendant  
3 disputes that defense counsel received the message, but  
4 does not contest that it received plaintiff's response to  
5 its first set of requests for admission.

6 Were I to deny amendment and deem the requests  
7 admitted, the effect of the admissions would be to  
8 practically eliminate any presentation on the merits of the  
9 majority of the issues in this case. Such a result would  
10 be unduly harsh, especially where, as here, plaintiff's  
11 response was less than one week late and he has submitted  
12 some evidence that he requested an extension to respond to  
13 the requests at issue. See Declaration of Marwan A. Harara  
14 in Support of His Mot. to Amend His Responses to Conoco's  
15 Requests for Admissions ("Harara Decl.") ¶¶4-7, Ex. 3,5.  
16 Plaintiff also appears to have requested to serve his  
17 response after the weekend so that he would have sufficient  
18 time to respond to defendant's interrogatories and requests  
19 for production of documents, which were due that day; to  
20 prepare his settlement conference statement; and to conduct  
21 a deposition scheduled for the following day. See Harara  
22 Decl. ¶4. Defendant has not submitted sufficient evidence  
23 to demonstrate that amendment will prejudice its case.  
24 Having carefully reviewed the parties' papers and  
25 supporting declarations, and based on the factual and legal  
26 issues presented, the current status of this case, and the  
27 long history of contentious and ongoing disputes between  
28 the parties throughout the litigation, I find that allowing

1 plaintiff to amend his requests will serve the presentation  
2 of the case on the merits and will not prejudice defendant.

3 For the foregoing reasons, plaintiff's motion is  
4 **GRANTED**, and plaintiff's response to defendant's first set  
5 of requests for admission stands. See Decl. of Adam  
6 Friedenbergr in Support of ConocoPhillips Company's Opp. to  
7 Pltfr's Mot. to Amend Admissions, Ex. B. Defendant has not  
8 demonstrated that additional discovery regarding the  
9 requests is necessary, and defendant's request to take  
10 additional discovery is therefore **DENIED**.

11 Dated: April 4, 2005

12 /s/Bernard Zimmerman  
13 Bernard Zimmerman  
14 United States Magistrate Judge

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